

Advisory Opinion

IECDB AO 2008-16

October 23, 2008

TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(11) and rule 351—1.2, the Iowa Ethics and Campaign Disclosure Board issues this opinion on the prohibition of contributions during legislative session includes the first day and last day of session. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

OPINION:

The issue has been raised regarding the prohibition on lobbyists and political committees (PACs) making contributions on the first day of session, but before the General Assembly has convened, and on the last day of session after the General Assembly has adjourned.

Iowa Code Section 68A.504(1), in pertinent part, states:

“A lobbyist or political committee...shall not contribute to, act as an agent or intermediary for contributions to, or arrange for the making of monetary or in-kind contributions to the campaign of an elected state official, member of the general assembly, or candidate for state office on any day during the regular legislative session...”

The Board is of the opinion that the legislature has clearly expressed its intent that campaign contributions are to be prohibited “on any day” the legislature is in session. In addition, no qualifiers on this prohibition were included in the statute that would exempt “portions” of a day.

When a candidate reports receiving a contribution from a lobbyist or PAC, and a lobbyist or PAC discloses making a contribution to a candidate, there is no way for the disclosure reports to reflect what time of day the contribution was received. Thus, to permit contributions on the first day of session, but before the legislature has officially convened, or on the last day of session, but after the legislature has adjourned, is confusing from a public disclosure perspective.

Therefore, campaign contributions from lobbyists and PACs to candidates for state office and state officeholders are prohibited from 12:00 a.m. on the day that legislative session convenes through 11:59:59 p.m. of the day that a legislative session adjourns.

We also note that the statute goes on to prohibit the receipt of contributions by candidates for state office and state officeholders from lobbyists and PACs during legislative session. This prohibition applies to when a contribution is “received” and not deposited in the campaign bank account. Thus, a contribution received prior to session that is not deposited until after session starts is permissible so long as the campaign properly reports when the contribution was received and not when it was deposited.¹

In closing, the Board encourages all candidates for state office, state officeholders, lobbyists, and PACs to review IECDB Advisory Opinions 2001-01, 2002-09, 2004-07, 2005-21, 2007-01, and Board rule 351—8.15 for further guidance on the application and interpretation of Iowa Code section 68A.504.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair
Janet Carl, Vice Chair
Gerald Sullivan
Betsy Roe
John Walsh
Patricia Harper

Submitted by: W. Charles Smithson, Board Legal Counsel

¹ See Iowa Code section 68A.203(2)“c” that requires a campaign treasurer to deposit all campaign contributions within seven days of receipt.